

REMARKS

The only issues outstanding in the Office Action mailed May 6, 2003, are the rejections under 35 U.S.C. §102, and the doctrine of obviousness-type double patenting. Reconsideration of these issues, in view of the following discussion, is respectfully requested.

Rejection Under 35 U.S.C. §102

Claims 1 and 7-17 are rejected under 35 U.S.C. §102(b) over Wachtler '471. Reconsideration of this rejection is respectfully requested. These claims have been amended in order to recite that, if A is trans-1,4-cyclohexylene or a single bond, Q¹ and Q² are hydrogen and X is cyano, Y and Z are fluorine. The cited patent does not suggest two fluoro groups on the terminal ring and, thus, neither anticipates nor suggests the present claims. Withdrawal of the rejection is therefore respectfully requested.

Double Patenting Rejections

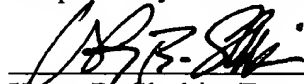
Various claims of the present application have been rejected under the doctrine of obviousness-type double patenting over various claims of three cited U.S. patents. However, the only reason given for this rejection is that there is "overlap" with the present applications' claims. It is respectfully submitted that mere overlap, without more, is insufficient to support the rejection under the doctrine of *obviousness*-type double patenting. Specifically, in order to support such a rejection, the claims of the cited patent must render obvious the claims of the present application. See, for example, *Carman Industries, Inc. v. Wahl*, 724 F.2d 932, 220 USPQ 481 (Fed. Cir. 1983). No case of obviousness has been advanced and, it is submitted, that the mere overlap between the present claims and that of the cited applications is insufficient to support a *prima facie* case of obviousness. Thus, it is submitted that these rejections should be withdrawn. However, in order to expedite prosecution, a terminal disclaimer over the three patents is filed herewith.

The claims of the application are submitted to be in condition for allowance. However, should the Examiner have any questions or comments, he is cordially invited to telephone the

undersigned at the number indicated below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



Harry B. Shubin (Reg. No. 32,004)
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Services as First Class Mail in an envelope addressed to: Commissioner of Patents, P O Box 1450, Alexandria, VA 22313-1450 on: 8/6/03

Name: Harry B. Shubin

Signature: Harry B. Shubin